

Jacob Andrew Cole  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

- (1) AVIS HUNT, as Special )  
Administrator for the )  
ESTATE OF DAMON LAMONT )  
FALLS, deceased, )  
vs. ) Case No. CIV-12-755-L  
                )  
(1) DANIEL HERRING, )  
Individually, while acting )  
under color of law, as an )  
Oklahoma City Police )  
Officer, and )  
(2) JACOB COLE, Individually, )  
while acting under color )  
of law, as an Oklahoma )  
City Police Officer, and )  
(3) ZACHARY MILLER, )  
Individually, while acting )  
under color of law, as an )  
Oklahoma City Police )  
Officer, and )  
(4) RAMON CASTRO, )  
Individually, while acting )  
under color of law, as an )  
Oklahoma City Police )  
Officer, and )  
(5) AARON WAKE, Individually, )  
while acting under color )  
of law, as an Oklahoma )  
City Police Officer, and )  
(6) TYLER DUNCAN, )  
Individually, while acting )  
under color or law, as an )  
Oklahoma City Police )  
Officer, and )  
(7) THE CITY OF OKLAHOMA CITY )  
a municipal Corporation, )

DEPOSITION OF JACOB ANDREW COLE  
TAKEN ON BEHALF OF THE PLAINTIFF  
ON JULY 10, 2013  
IN OKLAHOMA CITY, OKLAHOMA

REPORTED BY: JILL OTWELL, CSR, RPR

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1       **Q**     How long would it have taken you then to get  
2 to the Dollar General store?

3       **A**     Three minutes, four minutes.

4       **Q**     Did you hear any other radio calls come  
5 across concerning this matter?

6       **A**     Once we were headed that way, I started  
7 getting more information on the call. I could see the  
8 information that was on the screen. I understood that  
9 they were starting to get nervous and the information  
10 of the guy with the mask -- or not the mask. I'm  
11 sorry. The disguise with the beard and the wig  
12 started piquing my ideas of, you know, go ahead and  
13 start going that way.

14                  And then about the time Officer Miller and  
15 myself get to the I-35 overpass of Southeast 44th is  
16 when we hear Officer Wake say -- I heard "Gun.  
17 Running westbound 44th Street."

18       **Q**     And the overpass of I-35 and 44, how far  
19 further to the east do you have to travel to get to  
20 the Dollar General store?

21       **A**     West.

22       **Q**     West. Excuse me.

23       **A**     Two, 300 yards.

24       **Q**     Did you see anyone running at that point?

25       **A**     No. That's -- it dips down and kind of

1           Q     How did you know it was Wake?

2           A     You work around somebody long enough, you  
3     can hear their voice. You know, you recognize their  
4     voice on the radio.

5           Q     Specifically if you can tell me just word  
6     for word what you recall hearing.

7           A     I remember hearing, "Gun. He's running  
8     westbound 44th towards the train tracks."

9           Q     What is your reaction to that?

10          A     I turn on my lights, my sirens and I go full  
11     throttle. I'm running code and I'm running, getting  
12     there as fast as I can.

13          Q     When you get to the scene, what do you see?

14          A     I see who I now know to be Mr. Falls on the  
15     ground. Wake is around -- up by his head. And then  
16     Castro is straddling him with his -- on his upper  
17     legs, lower butt area. And Wake's trying to hold  
18     Mr. Falls down. He's got a hand in his back and he's  
19     got -- Mr. Falls has got a gun there. And at first, I  
20     was like -- and I realized that it was Mr. Falls' gun.  
21     Officer Miller, who was in front of me, arrived at the  
22     same time. He gets over there on the right side.

23          Q     Back up for one second. How far away from  
24     Mr. Falls do you park your vehicle?

25          A     Eight to ten yards tops. I mean, I'd say

1        eight yards was probably maximum.

2            Q     And there are certain observations that  
3        you're making before you ever get out of your vehicle,  
4        isn't there?

5            A     Yes.

6            Q     Tell me those observations you made prior to  
7        getting out of your vehicle, and then we'll talk about  
8        the observations you're making as you're going.

9            A     As we're pulling up, I see him on the  
10      ground. Officer Wake's towards Falls' head. Castro's  
11      straddling him. And that's about the time -- I'm  
12      watching traffic, because I'm in -- I'm in the  
13      westbound lane of traffic, so I have eastbound traffic  
14      coming at me, trying to get across to make sure I  
15      don't get hit in the process.

16           So as soon as I can -- trying to keep my  
17      attention. As soon as I get enough space, I get over,  
18      run out, I exit my car, Sergeant Miller is exiting his  
19      car. We run to opposite sides of Mr. Falls.

20           I see Miller start to assist with trying to  
21      get an arm out on the right side and I see that Wake's  
22      holding this gun in the air. And he goes, "Take  
23      this." Or "Take this and do something with it."

24           Q     So which hand is he holding the gun in?

25           A     I believe it was his right.

1           Q     And so he's only able to then secure Mr.  
2 Falls with his left hand?

3           A     He's holding him down and he looks like he's  
4 getting his weight into him, but he's bucking and he's  
5 trying to get -- trying to crawl up. He's got his  
6 hands underneath him, which is odd for somebody that's  
7 trying to get up as it appeared he was doing with his  
8 legs, because when people -- most people when they try  
9 to get up, they get their arms up high so they can  
10 push up.

11          Q     Does what you see him doing with his legs  
12 indicate he's trying to get up?

13          A     He's pulling -- he's pulling, you know,  
14 trying to pull knees up towards his body.

15          Q     You're seeing him trying to pull both the  
16 right and left knee up?

17          A     Well, I couldn't tell if he was pulling  
18 right and left. Because every time he would, he'd  
19 kind of go back down, because he couldn't get a base  
20 under him because he wouldn't take his hands out from  
21 his waist, which is what bothered me the most because  
22 I don't know why -- I know he's already had one gun.

23                 So I take the gun from Wake and rather than  
24 take the time to go back to my car, secure it, and  
25 back to the struggle, I just -- there was nobody else

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1       Q     Is any other part of his body on top of  
2 Mr. Falls?

3       A     I don't believe so.

4       Q     So he's off to which side?

5       A     I believe he was more towards being directly  
6 at the head.

7       Q     Was he then -- was his head facing towards  
8 the rear of Mr. Falls?

9       A     Mr. Falls' head was towards the south.

10      Q     Okay.

11      A     His feet were towards the north.

12      Q     Okay.

13      A     Which is where the road was. Officer Wake  
14 was at his head, facing back to the north. He had his  
15 left hand trying to help keep him down but only having  
16 one hand to do that with was not being very  
17 successful.

18           Officer Castro, who was facing south and was  
19 sitting on Mr. Falls' legs, was not having a very --  
20 not having a very effective time keeping his lower  
21 body pinned to the ground. Because of Mr. Falls' size  
22 and strength, he was, you know, he was bucking up  
23 under Officer Castro.

24      Q     Was he attempting to get his right arm out  
25 when you came to the scene? I'm talking about Officer

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1 Castro.

2 A His right arm?

3 Q Yes.

4 A Yes. It appears like he was trying to get a  
5 hold of him from behind and still try to hold him down  
6 and try to pull. And that's where Officer Miller came  
7 to try to assist.

8 Q At the time that you got there, from the  
9 first observation you made of what was going on, you  
10 never saw Officer Castro with his service weapon out?

11 A No.

12 Q Kind of going through just kind of what you  
13 saw at that point. So you get over there, Miller goes  
14 to the right side to try to help, you go to the left  
15 side. What do you start doing at that time after you  
16 get rid of this gun?

17 A After I get rid of the gun, I realized, you  
18 know, this guy's already had one weapon, he's got his  
19 hands around his waistband, which is where most people  
20 usually carry weapons. We don't know if he's got  
21 another weapon or not. If he does have a weapon under  
22 there, it's not going to take much for him to get it  
23 out and use it on one of us. So I become of the  
24 opinion that I need to use my Taser.

25 Q As you're making these observations, are you

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1           **Q**     So he's back at the leg area?

2           **A**     On the upper legs, legs, butt area. He's  
3     not all the way up on his lower back, but he's not all  
4     the way down to his knees.

5           **Q**     Do you at any time see Officer Castro lean  
6     forward to apply with his elbow a pressure point in  
7     the right side of Mr. Falls' neck?

8           **A**     Not that I recall.

9           **Q**     And where is Officer Miller at this point?

10          **A**     He's still on Mr. Falls' right side.

11          **Q**     During this five to ten seconds in between  
12     the time that you take the gun until you say "Taser,  
13     Taser," do you ever see Officer Miller attempt to  
14     extricate the right arm?

15          **A**     When he come up initially, I believe that  
16     was his first action was to attempt to help try to get  
17     that right arm out.

18          **Q**     And do you ever see them being successful  
19     before you say "Taser, Taser" in extricating that  
20     right arm?

21          **A**     No.

22          **Q**     So you say "Taser, Taser." You're still in  
23     the squatting position?

24          **A**     Uh-huh.

25          **Q**     And you deploy a full deployment of the

1 Taser?

2 A Yes.

3 Q And you think this would have been something  
4 less than a foot away?

5 A Yes.

6 Q Do you have any estimate as to how far away?

7 A I would say six to eight inches, ten inches.

8 Q At that point that you're making that  
9 deployment, you know you're not going to get a good  
10 spread, don't you?

11 A Yes.

12 Q You already know that you're going to have  
13 to use this machine in a drive stun situation, don't  
14 you?

15 A In a cartridge on drive stun, yes.

16 Q Yet you pull the trigger and you activate  
17 the trigger for 12 seconds at that point, don't you?

18 A Yes.

19 Q I mean, knowing that you're now going to  
20 have to put this into a drive stun, why did you keep  
21 the trigger depressed for that period of time?

22 A I went to do a drive stun -- to do the  
23 cartridge on drive stun and I see that it's -- it's  
24 not -- the cartridge on drive stun is not working.  
25 I'm not having the desired effect. I'm trying to find

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1       a place to make a good contact with it and I'm not  
2       successful. And I just -- I kept it -- I kept the  
3       trigger depressed.

4           Q     But when I read this report and I listened  
5       to the recorded statement that you gave, I had  
6       understood that the initial 12 seconds, there was  
7       never an attempt at a drive stun. The first 12  
8       seconds of trigger depression, you are seeing if  
9       you're getting any response at that point. It is only  
10      after that 12 seconds that you then apply the first  
11      drive stun?

12           A     No. That's not correct.

13           Q     You've read this report, haven't you?

14           A     Yes.

15           Q     Was that put there in error?

16           A     That was a misstatement, yes.

17           Q     Did you ever -- when's the first time you  
18       got a copy of this typewritten summary of your  
19       statement?

20           A     Shortly after this was -- this all started,  
21       the whole lawsuit process.

22           Q     Did you go to the reporting officer, Officer  
23       Whiteburg, and tell him that that was done in error?

24           A     No.

25           Q     Because I am correct, that's what the report

1 indicates is that for the first 12 seconds, there was  
2 no drive stun being applied.

3       **A**     That's the way I understand how you could --  
4 yes. I mean, that is an error. Because that was my  
5 intention the whole time was to deploy it and conduct  
6 the cartridge on drive stun.

7       **Q**     And you're saying that within that first 12  
8 seconds of the initial deployment of the Taser gun,  
9 you did attempt a location of a drive stun?

10      **A**     Yes.

11      **Q**     Where was that location that you selected?

12      **A**     I tried to go below -- I try to go as low as  
13 I can. And I was trying to get to his buttocks area.  
14 I couldn't get too low because Castro was still on him  
15 and I didn't want to get Castro.

16           And as I'm not finding an area that it  
17 works, I attach it -- attach it. I put it on a couple  
18 of seconds, doesn't work. I move it to another area  
19 and I'm not sure why it's not working. And I'm trying  
20 to find a spot where it will work. I release it.

21      **Q**     You saw in the report where there were -- I  
22 think in addition to the probe marks, there were seven  
23 additional prong -- two prong marks that the medical  
24 examiner found, correct?

25           MR. SMITH: Object to the form. You can

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1 answer if you understand it.

2 THE WITNESS: I don't believe they called  
3 them prong marks. I believe they had another name for  
4 them.

5 Q (By Mr. Walsh) Marks made by the drive  
6 stun.

7 A Correct.

8 Q And what you're telling me now is that you  
9 actually did two drive stuns during the initial 12  
10 second initial deployment?

11 A I may have gone to three different areas.

12 Q Have you ever seen the report that Sergeant  
13 Webster prepared concerning this matter?

14 A I did read over it. I glanced at it. It's  
15 been awhile.

16 Q Sergeant Webster gives an explanation for  
17 the number of marks found is that it could be related  
18 to Mr. Castro's moving.

19 A Castro?

20 Q Excuse me. Mr. Falls moving during that  
21 time. Was Mr. Falls moving as you're applying the  
22 drive stun?

23 A The cartilage on drive stun or the normal  
24 drive stun?

25 Q The cartridge for that first 12 seconds that

1 we're doing this.

2       **A**     He's -- he is still moving in the way that  
3     he was prior to me deploying. There was no change in  
4     his behavior. And there was no -- he did not stop  
5     what he was doing.

6       **Q**     I've got a pretty good idea based on what  
7     you told me about his lower extremities and what he  
8     was doing, trying to get his knees or knee up under  
9     him.

10              What movement are you seeing of his upper  
11     torso prior to making this deployment?

12       **A**     He's jerking. Riding around on the ground  
13     would be a good -- I believe would be a good term.

14       **Q**     And are you seeing his arms moving under  
15     him?

16       **A**     I'm not seeing anything other than him  
17     keeping his hands towards his waist.

18       **Q**     You don't know where his hands are at that  
19     point, do you?

20       **A**     They were lower than his chest. They were  
21     not up here. They were down here. (Indicating).

22       **Q**     You don't see any indication of digging with  
23     his hands, do you?

24       **A**     I guess you'd have to define digging. Are  
25     you talking big, furtive large motions? Or is he --

1 because I mean you could dig without making big  
2 motions. All you need is your fingers.

3 Q I understand. As you're doing that, you're  
4 still getting some upper arm movement, aren't you?

5 A His body and his arms are moving and he's  
6 doing -- his arms are moving, yes. His upper arms are  
7 moving which would move his lower arms. I mean, you  
8 could say he was digging. I mean, that would --

9 Q But you don't know that that was taking  
10 place, do you?

11 A I don't know it's not either.

12 MS. KNIGHT: Object to the form.

13 Q (By Mr. Walsh) I understand. You don't  
14 know it was taking place, do you?

15 MR. SMITH: Object to the form.

16 THE WITNESS: And not knowing is what  
17 bothers me.

18 Q (By Mr. Walsh) I just need you to answer  
19 that question. You know --

20 A No.

21 Q Okay. So how many drive stuns can you  
22 recall doing during that initial 12 seconds?

23 A I know I tried at least two locations,  
24 possibly a third.

25 Q And this would have been through the

1 sweatshirt that he was wearing?

2       **A**     This would have been through the pants he  
3     had on, sweatshirt. Like I said, I was trying to get  
4     as low as I could without actually touching Officer  
5     Castro with it.

6       **Q**     So you think you were down in the area where  
7     his pants were located doing this as well?

8       **A**     Probably around his waist, maybe a little  
9     lower.

10      **Q**     So then after this initial 12 seconds,  
11     what's the next thing that you do?

12      **A**     I did another cartridge on drive stun.

13      **Q**     And why did you elect to do a cartridge on  
14     drive stun rather than remove the cartridge?

15      **A**     I just did. I didn't -- the thought to  
16     reload didn't cross my mind.

17      **Q**     Okay. I'm not asking you to reload. But  
18     you told me that you also did drive stuns once you  
19     removed the cartridge, correct?

20      **A**     Right.

21      **Q**     So why didn't you remove the cartilage  
22     before you did another drive stun?

23      **A**     Because I know that the cartridge on drive  
24     stun is a more effective method of using it and I'm  
25     trying to use the most effective method, and I thought

1 look to make sure that you had two leads with wire?

2       **A**     No.

3       **Q**     If you had seen that you did not have two  
4       wires, what would you have done?

5       **A**     I'd have reloaded with my other cartridge  
6       and done the same thing I did the first time.

7       **Q**     During that initial 12 seconds when you  
8       applied the Taser after the initial deployment and  
9       you're doing the drives, either two or however many  
10      you did at that point, is this having any effect on  
11      Mr. Falls?

12      **A**     None.

13      **Q**     What are you thinking at that point?

14      **A**     I'm thinking that I'm not able to get a good  
15      connection through clothing because of the -- I'm  
16      thinking that there's some reason that I'm not getting  
17      a connection and I'm trying to figure out what it is.  
18      And I'm trying to assess the situation as I'm doing  
19      it. And I'm thinking that my lack of connection is  
20      coming from the Taser end and not the barb end.

21      **Q**     Is Officer Miller talking to you during this  
22      time?

23      **A**     I don't remember Miller talking to me until  
24      he said something about here, let me pull his shirt up  
25      or I'm pulling his shirt up.

1           **Q**     And it lasted for 12 seconds?

2           **A**     Yes.

3           **Q**     We see a second deployment taking place at  
4 19:42.19.

5           **A**     Yes.

6           **Q**     Is that still a drive stun with the  
7 cartridge in place?

8           **A**     That one would be, yes.

9           **Q**     And that deployment lasts for five seconds?

10          **A**     Yes.

11          **Q**     Now, we see, looking out to the side, if we  
12 look at the first sheet, the first -- after the local  
13 time, it gives you duration, temp and battery in those  
14 categories.

15          **A**     Okay.

16          **Q**     As far as the temperature, 30 degrees,  
17 anything that you -- is that an appropriate  
18 temperature?

19          **A**     I don't know.

20          **Q**     And we see that the battery percentage is  
21 62 percent.

22          **A**     Okay.

23          **Q**     That would indicate to you that this thing,  
24 this unit should still be operating at maximum  
25 efficiency with that battery power?

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1       Q     Then we have a two second delay and we have  
2 another application.

3       A     Yes.

4       Q     And that is also for five seconds.

5       A     Yes.

6       Q     For each -- and there are four of the five  
7 second applications. Does this indicate to you that  
8 like in the second application, you pull the trigger,  
9 released?

10      A     Correct.

11      Q     The 42:47 application is for five seconds.  
12 Do you know where this application was made?

13      A     In relation to?

14      Q     Where on the body?

15      A     Somewhere on the back.

16      Q     That would take us to 42:52. And then we  
17 have a total of 12 seconds that go by before the fifth  
18 and last deployment of the Taser, correct?

19      A     Correct.

20      Q     Now, during any of these deployments, were  
21 you noticing any difference in the activity of  
22 Mr. Falls?

23      A     I could tell that the drive stuns, without  
24 the cartridge on, were having an effect. Because he  
25 would actually reach his hand around and grab -- at

1 one point, actually grabbed a hold of it and to pull  
2 it off.

3 Q At the time that he did that, was there  
4 someone there to grab that arm?

5 A I believe they tried to. When he realized  
6 somebody was trying to grab my arm and he also grabbed  
7 a hold of the live end of the Taser, he jerked back  
8 around.

9 Q So he came in contact with the contact  
10 points of the Taser?

11 A I can't say that he did. I would say that  
12 that would be a reason, another reason to, you know,  
13 move -- that he might have moved his hand around  
14 because he grabbed a hold of it and pushed it away  
15 from his back.

16 Q Did you look at his hands to see if there  
17 were any marks on his hands?

18 A No.

19 Q Would there be marks on his hands?

20 A Possibly.

21 Q There should be, shouldn't there?

22 MS. KNIGHT: Object to the form.

23 MR. SMITH: Same objection.

24 THE WITNESS: Possibly. There could be.  
25 Could not be.

1 Q (By Mr. Walsh) Which hand did he grab?

2 | **A** Right.

3 Q Do you recall after which of these  
4 applications he grabbed for the stun gun?

5       **A**     I believe he did it on at least two  
6 occasions. Because that's how they were able to get a  
7 hold of -- finally get a hold of his right arm when he  
8 grabbed a hold of it. When he got his hand back  
9 around, everybody else grabbed that arm and held onto  
10 it and that's when they got cuffs onto it and were  
11 able to hold onto it.

12           Q     You had told me earlier that if the prongs  
13 with leads are attached and you do the drive stun with  
14 the cartridge on, that is more effective than just a  
15 drive stun without the cartridge, correct?

16 A Correct.

17 Q If the prongs are not operational, which is  
18 more effective, the drive stun with the cartilage or  
19 without?

20 MR. SMITH: Object to the form.

21 THE WITNESS: I would say they would be  
22 equally the same.

23 Q (By Mr. Walsh) So from the time that you  
24 start this operation of the Taser deployment, we  
25 have just -- we have 55 seconds that go by before

1 the last application and really after the last  
2 application we're at 43:09, aren't we?

3       **A**     Yeah.

4       **Q**     That is one minute that has gone by?

5       **A**     Yes.

6       **Q**     During that one minute, you have seen the  
7 change that you've described for me in Mr. Falls?

8       **A**     Yes.

9       **Q**     How soon after the last deployment of the  
10 Taser at 43:04 was it before the handcuffs were  
11 secured on Mr. Falls?

12      **A**     I know that that's the point where the first  
13 set of the handcuffs went on. Once we had one set of  
14 handcuffs on and one arm secured, I put my Taser away.  
15 And honestly I don't recall how we got his left arm  
16 out, but it came out. Somebody got some cuffs on him  
17 and we hooked him together.

18      **Q**     If we -- on this 12 seconds, I mean,  
19 regardless if those leads are working or not, when you  
20 do the drive stun or drive stun with the cartridge on,  
21 you are still being effective with the Taser gun,  
22 aren't you?

23      **A**     Not necessarily.

24      **Q**     So are you saying that even when you make  
25 contact with the person in the drive stun, with the

1      Taser. I mean, there's wires still going across the  
2      back and he's still there but he had to have touched  
3      the Taser.

4      Q      Now, at the time that Mr. Falls reached  
5      back, did you remove the Taser from the direct drive  
6      stun?

7      A      No. He did.

8      Q      So it was not in contact during that time?

9      A      Correct.

10     Q      So do you know when in the cycle that  
11    occurred?

12     A      No.

13     Q      I mean --

14     A      I was just amazed that I'm into him, you  
15    know, pushing this into his back. And I mean, that's  
16    not a very strong position, you know, and he's -- I  
17    was amazed that he was pushing that away, so I pulled  
18    it away and restarted a cycle and applied again.

19     Q      During that five second cycle if you want to  
20    discontinue the Taser, can you hit the safety to click  
21    it off?

22     A      Yes.

23     Q      Did you at any time do that?

24     A      No.

25     Q      Of the 32 seconds that we have activation of

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1       this Taser, it sounds like we don't have full contact  
2       during that entire 32 seconds.

3           **A**     Correct.

4           **Q**     Do you have any estimation as to how much  
5       time you lost either -- or through the efforts of  
6       Mr. Falls trying to get that removed from his back?

7           **A**     I would say half. Between that and me  
8       pulling it away from when Wake got himself shocked and  
9       just him moving in general, you know, and not being in  
10      full contact the whole time, I would say we -- I would  
11      estimate, I'd say half. That's not based on anything.

12          **Q**     That's what I was going to ask you. Because  
13      before you said a guess and now you said estimate.  
14      But it's still just a guess?

15           MR. SMITH: Object to the form.

16           THE WITNESS: (Nodded in the affirmative).

17          **Q**     (By Mr. Walsh) What happens, then, after  
18      you stop deployment of the Taser? Take me through  
19      what you did and what you saw occurring.

20          **A**     We already had a hand on or a cuff on his  
21      right hand. We were able to get his left hand out.  
22      Got him --

23          **Q**     Who got the left arm out?

24          **A**     I don't recall. I don't recall how it came  
25      out. It come out, another set of cuffs was put on him

1           **A**     There were miscellaneous objects in his  
2     pocket, and then there was all the stuff that was  
3     laying on the ground. There was a pair of keys on the  
4     ground, his wig, his mask, his hat. I think there was  
5     a pair of gloves in his pocket also.

6           **Q**     What did you do after you had searched him  
7     or assisted Officer Miller in searching him?

8           **A**     Like I said, we tried to keep him from  
9     rolling around. And when EMSA showed up, they came  
10    over. They looked at him. He was, you know, still  
11    moving around, being belligerent. He was yelling.

12          **Q**     What was he yelling?

13          **A**     I don't recall what he was yelling.

14          **Q**     Could you understand it at the time?

15          **A**     I don't know that he was actually yelling  
16    words. I couldn't tell you. I just don't recall.

17          **Q**     What's the next thing you did out there?

18          **A**     Once the EMSA paramedics walked up, looked  
19    at him, said he's fine, they walked off. Waited --

20          **Q**     You haven't talked about his spit coming  
21    out.

22          **A**     At some point during the search, he had  
23    tried to spit. I believe it was on Officer Miller.  
24    And then somebody -- we asked for a spit sock, spit  
25    hood, spit mask, whatever you want to call it. And it

1 was placed on him. It doesn't restrict his breathing  
2 any. And waited for the lieutenants to show up.  
3 There was a period of time, you know, waiting for them  
4 to show up because they were coming from quite a bit  
5 of ways away.

6                 And once Lieutenant Strecker had gotten  
7 information, I got a brown paper sack out of my car to  
8 police up my stuff so I could book that in. The  
9 cartridge and the wires have to be booked into the  
10 property room for evidence when they're used. And  
11 then we were going to go ahead and transport  
12 Mr. Falls.

13                 Q     Back up for one moment. The paramedics when  
14 they arrived, how many paramedics were there?

15                 A     Two.

16                 Q     Both males or male, female?

17                 A     Male, female.

18                 Q     Which paramedic went by and looked at  
19 Mr. Falls?

20                 A     I believe it was the male.

21                 Q     Did he at any time stop and examine  
22 Mr. Falls?

23                 A     Other than a visual once over?

24                 Q     Yes. Did Mr. Falls do anything that  
25 prohibited him from doing that?

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1           **A**     I mean, he was loud and yelling. I don't  
2 see -- I can't think of anything that would have kept  
3 him from doing it.

4           **Q**     So after the paramedics had checked him out,  
5 let's move to the point -- anything that you recall  
6 that you think is significant that took place from the  
7 time a paramedic looked at him until the time you're  
8 getting him up and trying to get him to the car?

9           **A**     No.

10          **Q**     Let's talk about what happened when you  
11 tried to get him up. Who was helping you?

12          **A**     I believe that I've heard that it was  
13 Castro. But I still couldn't tell you off the top of  
14 my head.

15          **Q**     At the time of the report, you did not know  
16 who it was?

17          **A**     No.

18          **Q**     So what did you guys do?

19          **A**     We go to pick him up under the arms like,  
20 come on, let's go, we're going to go to the hospital  
21 and get you checked out. Because that's part of our  
22 procedure after using a Taser, you have to take them  
23 to the hospital. They have to pull the darts out.  
24 We're not allowed to do it. When -- at first, it was  
25 like he just didn't want to get up. And then we kind

1 the federal guidelines were back in July of 2010, do  
2 you?

3 A No.

4 Q The stun gun that you're using, you haven't  
5 changed it, it's not more powerful now than what it  
6 was back in July of 2010, is it?

7 | A No.

8           Q     And other than to comport what you think are  
9 federal guidelines, you don't have any other reason or  
10 knowledge as to why the policies and procedures were  
11 changed?

12           **A**     No. And that was just something I'd heard.  
13        That's not me saying that's the reason.

14 Who told you this?

**A** Scuttlebutt.

16 Q Can you give me the name of anyone?

17 A NO.

18 MR. WALSH: Thank you.

## RE-EXAMINATION

20 BY MR. SMITH:

21 Q One more question.. I want to make sure.  
22 You never Tased Mr. Falls while a handcuff was on him,  
23 correct?

24 A Correct

Q You didn't Tase him when two handcuffs were